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CrI.O.P.No.5841 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

CrI.O.P.No.5841 of 2021

and

CrI.M.P.Nos.3772 & 3774 of 2021

1.Jayaram Venkatesan

2.Haris Sultan S.A

...Petitioners

-Vs-

1.The State of Tamil Nadu,
Rep.by Inspector of Police,
J-13, Tharamani Police Station,
Chennai.

2.U.Mathiazhagan

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the proceedings in C.C.No.3756 of 2019 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai and to quash the same.

For Petitioners

: Ms.Krishna Sree

For Ms.Sudha Ramalingam



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For R1

: Mr.S.Balaji
Government Advocate (Crl. Side)

For R2

: No appearance

ORDER

This Criminal Original Petition has been filed to quash the final report in C.C.No.3756 of 2019 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai, filed for the offences under Sections 143, 341, 294(b), 506(i), 120-B and 34 of IPC.

2.It is alleged in the final report that on 13.07.2019 at 8.00 a.m., the petitioners herein / A1 and A2 along with other accused, who were members of an organization called 'Arapore Iyakkam' had assembled unlawfully without permission in order to protest, by way of spreading false statement that the officials of the Dr.Ambedkar Law University had acquired water body of Tharamani lake for the purpose of constructing law college.



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3.The learned counsel for the petitioner would submit that the allegations would not constitute any of the offences alleged. Even assuming that the allegations are accepted to be true, the petitioners had assembled for a peaceful protest. The peaceful protest has sought to be converted as criminal act by the respondents. None of the offences are made out as against the petitioners.

4.The learned Additional Public Prosecutor, would submit that the allegations in the final report constitute the offences alleged against the petitioners and the points raised by the learned counsel for the petitioners are the matter, which has to be adjudicated only during the course of trial and prayed for dismissal of the quash petition.

5.The reading of the final report shows that the petitioners are members of Arapore Iyakkam. It is submitted that they are involved in various social activities for the benefit of the general public.

6.As regards the offence under Section 143 I.P.C., it seen that the charge sheet does not state as to how the protest by the petitioners



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attracted the offence of unlawful assembly. A mere protest by a group of people would not amount to unlawful assembly. There is no allegation in the charge sheet for the offence under Section 143 I.P.C. Since the allegations do not constitute the offence of unlawful assembly as stated, the offence under Section 143 I.P.C., would not be made out.

7.As regards the offence under Section 341 I.P.C., this Court in similar circumstances held that in *Jeevanandham and others vs. State* reported in **2018 SCC online Mad 13698 : (2018) 2 LW (Cri) 606** that merely because an hindrance is caused to the movement of general public for sometime due to a protest, the said act would not attract an offence of wrongful restrain. Hence, the offence under Section 341 I.P.C., is not made out.

8.As regards the offence under Section 294 (b) of the Indian Penal Code, the allegations in the impugned final report does not suggest that any obscene words were uttered by the petitioners. No doubt, there are allegations to infer that the petitioners had humiliated and insulted the persons. However, the offence under Section 294 (b) of the Indian Penal



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Code is not made out.

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9.As regards Section 506 (i) of the Indian Penal Code, the allegation does not amount to real threat in order to attract the offence of Section 506 (i) of the Indian Penal Code.

10.For the above reasons, the protest by the petitioners cannot be said to attract any of the offences alleged and hence, the impugned charge sheet is quashed insofar as the petitioners / A1 and A2.

11.Accordingly, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

30.03.2023

smv

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order



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To,

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- 1.The Inspector of Police,
J-13, Tharamani Police Station,
Chennai.
- 2.The Public Prosecutor,
High Court of Madras.
- 3.The XVIII Metropolitan Magistrate Court, Saidapet, Chennai.



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